

Attorney's Docket No. 038881/202803

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Fehring *et al.* Confirmation No.: 7387
Appl. No.: 09/660,948 Group Art Unit: 1742
Filed: September 13, 2000 Examiner: A. Wessman
For: ENHANCED BIOCOMPATIBLE IMPLANTS AND ALLOYS

May 8, 2003

12

Commissioner for Patents
Washington, DC 20231

RECEIVED
MAY 15 2003
GROUP 1700

DECLARATION UNDER 37 C.F.R. §1.131

Sir:

We, Thomas K. Fehring, John Harvie Chaffin, III, and Richard Lee Kennedy, do hereby declare and state as follows:

1. We are the inventors of the invention described and claimed in the above-referenced patent application. We have read and understand the Office Action mailed November 8, 2002 in the above-referenced application. We have also read U.S. Patent No. 5,891,191 relied upon by the Examiner as disclosing or suggesting the alloy recited in Claims 17-22 and 35-37. This Declaration is filed as a supplement to the Declaration filed September 11, 2002 to establish conception and reduction to practice of the subject matter claimed in the present application prior to the April 30, 1996 filing date of the Stinson patent.
2. Prior to April 30, 1996, the filing date of the Stinson patent, we Thomas K. Fehring, John Harvie Chaffin, III, and Richard Lee Kennedy conceived and reduced to practice the alloy compounds recited in Claims 17-22 and 35-37. These alloy compositions ultimately led to the filing of the above-referenced application.

3. In support of the foregoing statement, we hereby submit the best available copy of the following documents:

EXHIBIT A – Laboratory worksheet confirming the absence of carbides in the alloy composition within the scope of each of the claims of the above-referenced application.

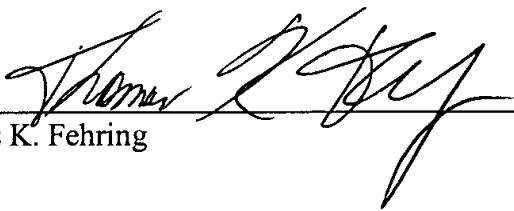
EXHIBIT B – Note to outside counsel confirming the absence of any second phase precipitation in the alloy composition within the scope of each of the claims of the above-referenced application.

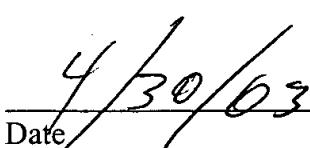
Although the dates have been redacted, these exhibits are dated prior to April 30, 1996, the filing date of the Stinson patent.

4. The alloy composition referenced in the attached worksheet corresponds to the composition of the invention described in the present Application on page 13, line 30 to page 14, line 7 and as shown in Figures 3 and 4 of the Application. The alloy composition referenced in the attached worksheet was prepared in accordance with the process described in the Application.

5. All of the work, which we completed in connection with this invention, was carried out in the United States.

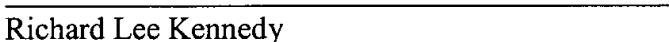
6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

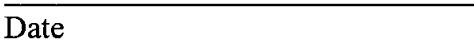

Thomas K. Fehring


Date


John Harvie Chaffin, III


Date


Richard Lee Kennedy


Date

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Thomas K. Fehring

John Harvie Chaffin III
John Harvie Chaffin, III

Date

5/1/03
Date

Richard Lee Kennedy

Date

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Thomas K. Fehring

Date

John Harvie Chaffin, III

Richard Lee Kennedy

Date

4/30/03

Date